



State of Utah
Department of Natural Resources
Division of Oil, Gas and Mining

Coal Regulatory Program Directive

Directive Number:
Adm - 002

Effective Date:
July 1, 1997

Supersedes:
Mid-Term Permit Review
Directive Dated June 7, 1995

Subject: **Mid-Term Reviews**

Approved: _____
James W. Carter, Director, Division of Oil, Gas, and Mining

On: _____

DISCLAIMER

“This non-binding directive is intended for internal direction for the Utah Coal Regulatory Program to clarify the implementation of the Utah Coal Rules. It neither confers rights nor imposes obligations on the Division or any other party. In the case where a conflict is perceived to exist between this directive and the Utah Coal Rules, the rules prevail.”

ABSTRACT

This directive establishes the regulatory basis for mid-term reviews and procedures direction to Division staff that will facilitate instructions and conclusion of the mid-term review process.

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1. Purpose

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Clarification for the requirements of Utah Admin. R645-303-211 through 211.3.

2. Regulatory Basis

R645-303-211- The Division will review each permit issued and outstanding under the state program during the term of the permit. This review will occur not later than the middle of each permit term and as follows:

211.100. Permits with a term longer than five years will be reviewed no less frequently than the permit mid-term or every five years, whichever is more frequent;

211.200. Permits with variances granted in accordance with R645-302-220 and R645-302-280 will be reviewed no later than three years from the date of issuance of the permit unless, for variances issued in accordance with R645-302-220, the permittee affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the permit; and

211.300. Permits containing experimental practices issued in accordance with R645-302-210 and permits with a variance from approximate original contour requirements in accordance with R645-302-270 will be reviewed as set forth in the permit or at least every two and one-half years from the date of issuance as required by the Division in accordance with R645-302-217 and R645-302-273, respectively.

3. Definitions

“Plan” means, for purposes of the directive, the approved plan for conducting coal mining and reclamation operations within Utah.

4. Policy

At the required time for a mid-permit term review as defined at R645-303-211 through 211.3, including operations undergoing reclamation, the Division Permit Supervisor will assign a technical work group to review elements numbered A through G (below) for mid-term review in accordance with this directive.

Prior to initiation of the mid-term review, the permittee will be notified in writing which elements will be considered during the mid-term review. Written notice will include the approximate time-frame during which the

review will be undertaken. Review of the following elements shall constitute the mid-term review:

A. Review of the Plan to ensure that the requirements of all permit condition, division orders, notice of violation (NOV), abatement plans, and permittee-initiated Plan changes approved subsequent to permit approval or renewal, (whichever is the most recent) are appropriately incorporated into the Plan document.

B. Ensure that the Plan has been updated to reflect changes in the Utah Coal Regulatory Program which have occurred subsequent to permit approval or renewal, (whichever is the most recent).

C. Review applicable portions of the permit to ensure that the Plan contains commitments for application of the best technology currently available (BTCA) to prevent additional contributions of suspended solids to stream flows outside of the permit area.

D. Evaluate the compliance status of the permit to ensure that all unabated enforcement actions comport with current regulations for abatement; verify the status of all finalized penalties levied subsequent to permit issuance or permit renewal, (whichever is the most recent) and verify that there are no demonstrated patterns of violation (POV).

E. Evaluate the reclamation bond to ensure that coverage adequately addresses permit changes approved subsequent to permit approval or renewal (which ever is the most recent), and to ensure that the bond amount is appropriately escalated in current-year dollars.

F. Evaluate the permit for compliance with variances or special permit conditions including:

- (1) R645-302-210. Experimental Practices Mining.
- (2) R645-302-220. Mountaintop Removal Mining.
- (3) R645-302-270. Variances from Approximate Original Contour Restoration Requirements.
- (4) R645-302-280. Variances for Delay in Contemporaneous Reclamation Requirement in Combined Surface and Underground Coal Mining and Reclamation Activities.

G. Optional for active mines, mandatory for reclamation only sites: conduct a technical site visit in conjunction with the assigned compliance inspector to document the status and effectiveness for operational, reclamation, and contemporaneous reclamation practices undertaken on predetermined portions of the disturbed area to minimize,

to the extent practicable, the contribution of acid or toxic materials to surface or groundwater, and to otherwise prevent water pollution.

5. Procedure

A. At least 60 days prior to the middle of the permit term, the Permit Supervisor, in consultation with the Associate Director of Mining and representatives from DOGM's compliance work group, will select those elements which will be considered during the mid-term review from the list of paragraphs A-G in the preceding section.

B. A work group possessing appropriate technical expertise will be assigned to conduct the mid-term review. For reclamation-only sites with Phase I bond release, a biologist and hydrologist (or other appropriate personnel) will conduct one site visit. For reclamation-only site with Phase I bond release, results of the team inspections will be filed in the form of a findings document signed by the Associate Director of Mining.

C. The review will be completed within 60 days of the middle of the permit term, and will be in the form of a series of findings addressed to the Division Director through the Associate Director of Mining describing the degree of compliance achieved by the permittee for the elements reviewed.

D. Within 90 days following the middle of the permit term, the Division will transmit the Division's finding to the permittee and, where required, will order compliance measures to be taken. Transmission of the findings and issuance of necessary Division Orders to the permittee will constitute conclusion of the mid-term review.

6. Delegated Responsibilities

A. Element Selection. Permit Supervisor or Compliance Supervisor in consultation with Associate Director of Mining.

B. Drafting of Findings. Work group under direction of Permit Supervisor.

C. Transmission of Findings to Permittee. Division Director or Associate Director of Mining.

7. Documentation/Distribution

Upon conclusion, mid-term reviews will contain written findings describing compliance achieved for the elements included in the review. If Division Orders were required to conclude the mid-term review, the findings will identify the Division Order by number and date of issuance.

8. References

See regulations cited.

9. Effect on Other Documents

Supersedes Permit Renewals directive dated June 7, 1995.

10. Division Contact/Work Group

Mary Ann Wright, Pamela Grubaugh-Littig.

11. Key Words

Permit Review, Mid-Permit Term Review, Mid-Term Permit Review.

12. Appendices

None.